



# TOWN OF ANDOVER, MASSACHUSETTS

## TOWN CHARTER

[HISTORY: Included herein as the Town Charter is Chapter 571 of the Acts of 1956, as revised in 1974. The Charter was accepted in 1958.]

An Act Establishing A Selectmen-Town Manager Plan For The Town Of Andover [Chap. 571]  
Be it enacted, etc., as follows:

### § 1. Board of Selectmen.

At the first town election following the acceptance of this act the registered voters of the town of Andover shall elect five selectmen of whom two shall serve for terms of three years, two for terms of two years, and one for a term of one year. At each annual town election thereafter the voters shall elect in place of those selectmen whose terms are about to expire a like number of selectmen to serve for terms of three years. When a vacancy occurs in the office of selectman, the remaining selectmen may at any time prior to the next town election appoint a qualified person to serve as selectman until such election, at which election the voters shall elect a selectman to serve for the unexpired portion, if any, of the original term. The selectmen in office at the time of said first election shall continue in office until their successors are elected and qualified.

The Board of Selectmen shall be considered the makers of policy of the Town government, except as otherwise directed by Statutes or by the Town Charter. The Town Manager shall be responsible for ensuring that the boards, officers and representatives of the Town comply with policy determinations of the Selectmen.

### § 2. Other Elected Officials.

In addition to the selectmen, the registered voters of the town shall continue to elect the following officials in accordance with any applicable statutes, by-laws and votes of the town:

- (a) A Moderator.
- (b) A school committee.
- (c) Elected Trustees of Punchard Free School.
- (d) Trustees of Cornell Fund.
- (e) Andover Housing Authority.

The term of office of any elective office, board or committee so continued, under this section, shall not be interrupted. Every other elective office, board or commission shall be terminated as hereinafter provided, any other provisions of law to the contrary notwithstanding. The term of office of any person elected to any office, board or commission existing at the time of such acceptance and terminated hereunder shall

continue until such first town election and until the appointment and qualification of his successor, if any, and thereafter the said offices, boards and commissions shall be abolished and all powers, duties and obligations conferred or imposed thereon by law, except as provided by this act, shall be conferred and imposed upon the selectmen and exercised by the town manager to the extent hereinafter provided. The powers, duties and responsibilities of elected officials shall be as now or hereafter provided by applicable statutes and by-laws and votes of the town, except as otherwise expressly provided herein.

### § 3. Appointed Officials.

- (a) The selectmen shall appoint a town manager as provided in section six, who may thereafter be removed as provided in section eight.
- (b) The selectmen shall appoint a zoning board of appeals, officers and registrars of voters other than the town clerk, a town accountant, and may, after such notice and hearing as they may deem advisable, remove any person so appointed for cause. **[Amended 4-28-2003 ATM, Art. 21; approved by Chapter 141 of the Acts of 2004<sup>[1]</sup>**

[1]: *Editor's Note: This Chapter 141 of the Acts of 2004 also provided that it shall take effect 7-24-2004.*

- (c) The moderator shall appoint such boards, committees and officers, including a finance committee, as he may now or hereafter be directed to appoint by any applicable law, by-law or vote of the town.
- (d) The town manager shall appoint, subject to the approval of the board of selectmen, upon merit and fitness alone, and may, subject to the provisions of chapter 31 of the General Laws where applicable, remove for cause a town clerk, town treasurer, tax collector, a board of public health, a planning board, a board of assessors, a board of library trustees, a town counsel, and all other officers, boards, committees and employees of the town, with the exception of the elected officials specified in section two, and employees of such elected officials. **[Amended 4-28-2003 ATM, Art. 21; approved by Chapter 141 of the Acts of 2004<sup>[2]</sup>**

[2]: *Editor's Note: This Chapter 141 of the Acts of 2004 also provided that it shall take effect 7-24-2004.*

### § 4. Memberships, Terms, Powers, Duties and Responsibilities.

The number of members of boards, commissions and committees so appointed as provided in the preceding section, the length of the term of each member thereof and of officers so appointed, and the powers, duties and responsibilities of the same shall be as now or hereafter provided by any applicable law, by-law or vote of the town, except as herein otherwise provided. Upon appointment and qualification of the various officials as provided for in section three, the term of office and all powers and duties of each person theretofore holding each such office shall cease and be terminated.

Officers, boards, commissions and committees appointed by the town manager shall possess all the powers and rights and shall be subject to all the duties and liabilities specifically conferred or imposed by any applicable provision of law upon them or upon officers, boards, commissions or committees having corresponding powers and duties, but

in the performance thereof they shall be subject to the general supervision of the town manager.

In the Charter, words in the masculine gender shall be interpreted to include the feminine gender. **[Amended 4-28-2003 ATM, Art. 21; approved by Chapter 141 of the Acts of 2004<sup>[1]</sup>]**

[1]: *Editor's Note: This Chapter 141 of the Acts of 2004 also provided that it shall take effect 7-24-2004.*

## § 5. Multiple Offices.

A member of the board of selectmen, or of the school committee, or of the finance committee, shall during the term for which he was elected or appointed, be ineligible to hold any other elective or appointive town office or position. Any person elected or appointed to any other office, board, commission or committee under the provisions of this act or of any general or special law, shall be eligible, during his term of office, for election or appointment to any other town office, board, commission or committee, except that the town accountant shall not be eligible to hold the office of the town treasurer or town collector. Notwithstanding the foregoing, whenever the town shall undertake to construct or improve a school building or property, one member of the school committee and an administrative representative of the superintendent of schools shall be appointed by the school committee to serve on the school building committee to which the planning and construction or acquisition of such school building or property is delegated. **[Amended 10-23-1996 STM, Art. 14; approved by Chapter 50 of the Acts of 1997]**

Subject to the approval of the selectmen the town manager may, but without additional compensation therefor, assume the powers, duties and responsibilities of any office which he is authorized to fill by appointment, such assumption to be evidenced by and effective upon the filing with the town clerk of a written declaration of such assumption signed by the town manager, except he shall not appoint himself as a member of any board or committee.

## § 6. Appointment of Town Manager.

The selectmen shall appoint, as soon as practicable after the first town election following acceptance of this act or after the occurrence of any vacancy, for a term of five years, a town manager who shall be a person especially fitted by education, training and previous full-time paid experience in a responsible administrative position in municipal government, to perform the duties of his office. The town manager shall be appointed without regard to his political beliefs. He need not be a resident of the town when appointed, but shall be a resident of the town during his term of office. He may be appointed for successive terms of office. No holder of elective office in the town shall within five years of holding such office be eligible for appointment as town manager. Before entering upon the duties of his office the town manager shall be sworn to the faithful and impartial performance thereof by the town clerk, or by a justice of the peace. He shall execute a bond in favor of the town for the faithful performance of his duties in such sum and with such surety or sureties as may be fixed or approved by the selectmen, the premium for said bond to be paid by the town.

## § 7. Acting Manager.

The town manager may designate, by letter filed with the town clerk, a qualified officer of the town to perform his duties during his temporary absence or disability. Pending the

appointment of a town manager or the filling of any vacancy or the failure of the town manager to designate a temporary manager, or during the suspension of the town manager, the selectmen shall appoint a suitable person to perform the duties of the office.

## **§ 8. Removal of Manager.**

The selectmen, by a majority vote of the full membership of the board, may remove the town manager. At least 30 days before such proposed removal shall become effective, the selectmen shall file a preliminary resolution with the town clerk setting forth in detail the specific reasons for the proposed removal, a copy of which resolution shall be sent by registered mail to the town manager. The manager may reply in writing to the resolution and may request a public hearing. If the manager so requests, the board of selectmen shall hold a public hearing not earlier than 20 days nor later than 30 days after the filing of such request. After such public hearing, if any, otherwise at the expiration of 30 days following the filing of the preliminary resolution, and after full consideration, the selectmen, by a majority vote of the full membership of the board, may adopt a final resolution of removal. In the preliminary resolution, the selectmen may suspend the manager from duty, but in any case his salary shall continue to be paid until the expiration of one month after the date of the final resolution of removal.

## **§ 9. Compensation of Manager.**

The town manager shall receive such compensation for his services as the selectmen shall determine, but it shall not exceed the amount appropriated therefor by the town.

## **§ 10. Powers and Duties of Manager.**

In addition to other powers and duties expressly provided for in this act, the town manager shall have the following powers and duties:

- (a) The town manager shall supervise and direct and shall be responsible for the efficient administration of all offices, boards and committees appointed by him and their respective departments. He shall, in addition, supervise and direct and shall be responsible for the efficient administration of any agency or activity of the town not subject to his appointment or control, including the Andover Housing Authority, but only at such time and to such extent and for such period as the elected officials having control of such agency or activity may, with the consent of the selectmen, determine.
- (b) The town manager, in accordance with the provisions of this act and except as otherwise expressly prohibited by the General Laws, may reorganize, consolidate or abolish departments, commissions, boards or offices under his direction and supervision, in whole or in part, may establish such new departments, commissions, boards or offices as he deems necessary, and in so doing, may transfer the duties and powers, and, so far as possible in accordance with the vote of the town, the appropriation of one department, commission, board or office to another.
- (c) The town manager shall fix the compensation of all town officers and employees appointed by him, subject to any applicable provisions of chapter 31 of the General Laws.

- (d) The town manager shall keep full and complete records of his office and shall render as often as may be required by the selectmen a full report of all operations during the period reported on.
- (e) The town manager shall keep the selectmen fully advised as to the needs of the town, and shall recommend to the selectmen for adoption such measures requiring action by them or by the town as he may deem necessary or expedient.
- (f) The town manager shall have jurisdiction over the rental and use of all town property, except schools. He shall be responsible for the maintenance and repairs of all town property, except school buildings and grounds. He shall be responsible for the preparation of plans and the supervision of work on all construction, reconstruction, alterations, improvements and other undertakings authorized by the town, subject, however, to the approval of the school committee with respect to plans for the construction or improvement of school buildings or property.
- (g) The town manager shall administer, either directly or through a person or persons appointed by him in accordance with this act, all provisions of general and special laws applicable to said town, all by-laws and all regulations established by the selectmen.
- (h) The town manager shall, with the approval of the selectmen, have the authority to prosecute, defend or compromise all litigation to which the town is a party.
- (i) The town manager shall perform such other duties consistent with his office as may be required of him by the by-laws or vote of the town or by the vote of the selectmen.
- (j) The town manager shall have access to all town books and papers for information necessary for the proper performance of his duties, and may, without notice, cause the affairs of any department or activity under his control, or the conduct of any officer or employee thereof, to be examined.
- (k) The town manager shall purchase all supplies, materials and equipment except library books and related printed and audio-visual material, and shall award all contracts for all departments and activities of the town under his supervision; and he shall make all purchases, except school text-books, for departments or activities not under his supervision but only upon and in accordance with a requisition duly signed by the head of any such department.

## **§ 11. Investigation of Claims.**

Whenever any pay roll, bill or other claim against the town is presented to the town manager, he shall, if the same seems to him to be of doubtful validity, excessive in amount, or otherwise contrary to the interests of the town, refer it to the selectmen, who shall immediately investigate the facts and determine what, if any, payment should be made. Pending such investigation and determination by the selectmen, payment shall be withheld.

## **§ 12. Approval of Warrants.**

The town manager shall be the chief fiscal officer of the town. Warrants for the payment of town funds prepared by the town accountant, in accordance with the provisions of section 56 of chapter 41 of the General Laws, shall be submitted to the town manager. The approval of any such warrant by the town manager, or in his absence the acting town manager, shall



be sufficient authority to authorize payment by the town treasurer, but the selectmen shall approve all warrants in the event of the absence of the town manager, acting town manager or a vacancy in the office of town manager.

## **§ 13. Fees paid to Treasury.**

The aggregate compensation of each town officer or employee appointed by the town manager shall be limited to the amount established in accordance with the provisions of this act, and all fees received in accordance with the provisions of any general or special law shall be paid into the treasury of the town.

## **§ 14. Certain Officers not to make Contracts with the Town.**

It shall be unlawful for any selectman, the town manager, or any other elective or appointive official of the town, directly or indirectly, to make a contract with the town, or to receive any reward from, or any share in the profits of, any person or corporation making or performing such contract, unless the official concerned, immediately upon learning of the existence of such contract, or that such a contract is proposed, shall notify the selectmen and the town manager, by registered mail, of the contract and of the nature of his interest therein, and shall abstain from doing any official act on behalf of the town in reference thereto. In case such interest exists on the part of an officer whose duty it is to make such a contract on behalf of the town, the contract may be made by another officer of the town duly authorized thereto by vote of the selectmen. Violation of any provision of this section shall render the contract in respect to which such violation occurs voidable at the option of the town. Any person violating any provision of this section shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

## **§ 15. Estimate of Expenditures.**

All boards, officers and committees, of the town shall annually, at the request of the town manager, submit to him in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments and offices during the next fiscal year. On or before a date established by a Town By-Law, the town manager shall submit to each member of the finance committee and of the board of selectmen a copy of his annual budget, which shall contain a careful, detailed estimate of the probable expenditures of the town for the ensuing fiscal year, including a statement of the amounts required to meet the interest and maturing bonds and notes or other indebtedness of the town, and showing specifically the amount necessary to be provided for each office, department and activity, together with a statement of the expenditures for the same purposes in the two preceding years and an estimate of expenditures for the current year. He shall also submit a statement showing all revenues received by the town in the two preceding years, together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year. He shall also report to said committee and to the selectmen the probable amount required to be levied and raised by taxation to defray all of the proposed expenditures and liabilities of the town, together with an estimate of the tax rate

necessary therefor.

## **§ 16. By-Laws, Rules, etc.**

All laws, by-laws, votes, rules and regulations in force in the town of Andover on the effective date of this act, or any portion thereof, not inconsistent with its provisions, whether enacted by authority of the town or any other authority, shall continue in full force and effect until otherwise provided by law, by-law or vote; all other laws, by-laws, votes, rules and regulations, so far as they refer to the town of Andover, are hereby repealed and annulled, but such repeal shall not revive any pre-existing enactment.

## **§ 17. Contracts.**

No contract existing and no action at law or suit in equity, or other proceeding pending at the time this act is accepted, or at the time of revocation of such acceptance, shall be affected by such acceptance or revocation.

## **§ 18. Submission of Act and Time of Taking Effect.**

This act shall be submitted for acceptance to the qualified voters of the town of Andover at the first annual town election after passage of this act. The vote shall be taken by ballot in accordance with the provisions of the General Laws, so far as the same shall be applicable, in answer to the following question, which shall be placed upon the ballot to be used at said election: "Shall an act passed by the General Court in the year 1956 entitled 'An act establishing a selectmen-town manager plan for the town of Andover' be accepted by the town?" If a majority of the voters voting on this question vote in the affirmative, said act shall take effect immediately for the purpose of the next annual town election, and for all things relating thereto, and shall take full effect beginning with said following election. It shall be the duty of all town officials having to do with elections and holding office at the time of acceptance to do, in compliance with law, all things necessary for the nomination and election of officers first to be elected under this act.

If this act is rejected when first submitted it shall again be submitted at the next following annual town election, and if accepted shall take effect as hereinbefore provided.

If this act is rejected for the second time it shall be again submitted at the annual town election in the year 1959, and if accepted shall take effect as hereinbefore provided. If this act is again rejected when so submitted for the third time, it shall thereupon become void.

## **§ 19. Revocation of Acceptance.**

At any time after the expiration of three years from the date of acceptance of this act, and not less than 90 days before the date of an annual meeting, a petition signed by not less than 10% of the registered voters of the town may be filed with the selectmen, requesting that the question of revoking the acceptance of this act be submitted to the voters. No such petition shall be valid unless notice thereof shall be published by the selectmen for at least two consecutive weeks in a newspaper having general circulation in the town, the last publication to be at least 30 days prior to said annual meeting. The selectmen shall thereupon direct the town clerk to cause the said question to be printed on the official

ballot to be used at the next annual election in the following form: "Shall the acceptance by the town of Andover of an act passed by the General Court in the year 1956, entitled 'An act establishing a selectmen-town manager plan for the town of Andover' be revoked?" If such revocation is favored by a majority of the voters voting thereon, this act shall cease to be operative on and after the annual meeting next following such vote. All general laws respecting town administration and town officers, and any special laws relative to said town, the operation of which has been suspended or superseded by acceptance of this act, shall be revived by such revocation and shall continue to be in full force and effect. By-laws, votes, rules and regulations in force when such revocation takes effect, so far as they are consistent with the general laws respecting town administration and town officers and with special laws relating to said town, shall not be affected thereby, but any other by-laws, votes, rules and regulations inconsistent with such general or special laws shall be annulled. If such revocation is not favored by a majority of the voters voting thereon, no further petition therefor shall be filed under this section oftener than once in every three years thereafter.

*Approved July 26, 1956.*

Revised March 4, 1974